

REMARKS

In the Final Office Action¹, the Examiner rejected claims 1-5, 12-13, 15-18, 25-26, 28, 46-48, and 50-52 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,870,454 to Dahlen ("*Dahlen*") in view of U.S. Patent No. 5,754,628 to Bossi et al. ("*Bossi*"); rejected claims 1-4, 6, 16-17, 19, and 46-48, and 50-52 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,805,671 to Ohuchi ("*Ohuchi*") in view of *Bossi*; rejected claims 7, 14, 20, 27, 35, and 39 under 35 U.S.C. § 103(a) as being unpatentable over *Dahlen*, in view of *Bossi*, and further in view of U.S. Patent No. 6,751,299 to Brown et al. ("*Brown*"), and rejected claims 41, 43-45, 49, and 53 under 35 U.S.C. § 103(a) as being unpatentable over *Dahlen*, in view of *Brown* or *Ohuchi*, and further in view of *Bossi*. The Examiner indicated allowable subject matter in claims 8-10 and 21-23 if these claims are rewritten in independent form.

Applicant has amended claims 1, 16, 41, and 46-53. Claims 1-10, 12-23, 25-28, 41, and 43-53 remain pending.

Applicant respectfully traverses the rejection of claims 1-5, 12-13, 15-18, 25-26, 28, 46-48, and 50-52 under 35 U.S.C. § 103(a). The prior art cited by the Examiner, *Dahlen* and *Bossi*, even if combinable as suggested by the Examiner, does not teach or suggest each and every element of claims 1-5, 12-13, 15-18, 25-26, 28, 46-48, and 50-52. A *prima facie* case of obviousness has, therefore, not been established.

Claim 1 recites a communication system including, for example:

¹ The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

a second communication device for receiving said outgoing data and for transmitting audio content data ... and

a third wireless communication device for receiving and storing said audio content data transmitted from said second communication device without pushing an off-hook button and for reproducing said audio content data.

(emphasis added). The Examiner states that *Dahlen* “fails to clearly teach the features of downloading the audio content data from the second communication device without pushing an off-hook button and for reproducing said audio content data” (Office Action at page 3). The Examiner relies on *Bossi* to teach these limitations (Office Action at page 3). Applicant respectfully disagrees.

Bossi discloses a telephone adjunct network interface device 10 that includes a pair of RJ11 jacks 20 and 22 that are mounted in the back wall 18 to provide connection to a telephone line (col. 3, lines 47-57). The device, in *Bossi*, is not wireless. Moreover, there is no teaching in the prior art that a third wireless communication device stores audio content data. Therefore, *Dahlen* in view of *Bossi* does not teach “a third wireless communication device for receiving and storing said audio content data”, as recited in claim 1.

Accordingly, *Dahlen* and *Bossi* fail to establish a *prima facie* case of obviousness with respect to claim 1, at least because the references fail to teach each and every element of the claim. Claims 2-5, 12, 13, and 15 depend from claim 1 and are thus also allowable over *Dahlen* in view of *Bossi*, for at least the same reasons as claim 1.

Independent claims 16, 46-48 and 50-52 and dependent claims 17, 18, 25, 26, and 28, while of different scope, recite limitations similar to those of claim 1 and are thus

allowable over *Dahlen* in view of *Bossi* for at least the same reasons discussed above in regard to claim 1.

Applicant respectfully traverses the rejection of claims 1-4, 6, 16-17, 19, and 46-48, and 50-52 under 35 U.S.C. § 103(a) as being unpatentable over *Ohuchi* in view of *Bossi*.

Ohuchi discloses a method of informing “a calling party of the fact that the audio message from a partner has been stored in the memory on the basis of information of the partner which was inputted for call generation” (col. 2, lines 16-20). The Examiner states that *Ohuchi* “fails to clearly teach the features of downloading the audio content data from the second communication device without pushing an off-hook button and for reproducing said audio content data” (Office Action at page 6).

Bossi does not cure the deficiencies of *Ohuchi*. *Bossi* discloses a telephone adjunct network interface device 10 that includes a pair of RJ11 jacks 20 and 22 that are mounted in the back wall 18 to provide connection to a telephone line (col. 3, lines 47-57). The device, in *Bossi*, is not wireless. Moreover, there is no teaching in the prior art that a third wireless communication device stores audio content data. Therefore, *Ohuchi* in view of *Bossi* does not teach “a third wireless communication device for receiving and storing said audio content data”, as recited in claim 1.

Accordingly, *Ohuchi* and *Bossi* fail to establish a *prima facie* case of obviousness with respect to claim 1, at least because the references fail to teach each and every element of the claim. Claims 2-4 and 6 depend from claim 1 and are thus also allowable over *Ohuchi* in view of *Bossi*, for at least the same reasons as claim 1.

Independent claims 16, 46-48 and 50-52 and dependent claims 17 and 19, while of different scope, recite limitations similar to those of claim 1 and are thus allowable over *Ohuchi* in view of *Bossi* for at least the same reasons discussed above in regard to claim 1.

Regarding the rejection of claims 7, 14, 20, 27, 35, and 39, dependent from claims 1 and 16, the Examiner relies on *Brown* for allegedly teaching “another communication device for transmitting advertisement data and sponsor identification data identifying a sponsor of said advertisement data to said second communication device” (Office Action at page 7). Even assuming this assertion is true, *Brown* fails to cure the deficiencies of *Dahlen* and *Bossi* discussed above. *Brown* discloses a voice messaging system including “a set of geographically distributed devices in which voice messages are stored” (col. 1, lines 64-66). “The device is one from which messages can be efficiently retrieved by a user” (col. 1, line 67-col. 2, line 1). *Brown* does not teach “a third wireless communication device for receiving and storing said audio content data transmitted from said second communication device without pushing an off-hook button and for reproducing said audio content data,” as recited in claim 1. Therefore, claims 7, 14, 20, 27, 35, and 39 are also allowable over *Dahlen*, *Bossi*, and *Brown* for at least the same reasons as claim 1.

Regarding the rejection of claims 41, 43-45, 49, and 53, the Examiner relies on *Brown* or *Ohuchi* for allegedly teaching “the feature of receiving advertisement data along with the greeting data” and “the feature of transmitting to and controlling for a server device reception-complete data when message and advertisement have been received” (Office Action at pages 8-9). The Examiner further relies on *Bossi* for

allegedly teaching “the features of downloading the audio content data from the second communication device with pushing an off-hook button and for reproducing said audio content data” (Office Action at page 9).

Even assuming this assertion is true, *Brown, Ohuchi, and Bossi* fail to cure the deficiencies of *Dahlen* discussed above. *Dahlen, Brown, Ohuchi, and Bossi* do not teach a mobile phone comprising “storing means for storing greeting mail and advertisement data without pushing an off-hook button,” as recited in claim 41, and a “wireless apparatus associated with said receiving party receives and stores said audio content data without pushing an off-hook button” as recited in claims 49 and 53. Therefore, independent claims 41, 49, and 53, and dependent claims 43-45 are also allowable over *Dahlen, Brown, Ohuchi, and Bossi* for at least the same reasons as claim 1.

Applicant respectfully requests that this Amendment under 37 C.F.R. § 1.116 be entered by the Examiner, placing claims 1-10, 12-23, 25-28, 41, and 43-53 in condition for allowance. This Amendment should allow for immediate action by the Examiner.

Furthermore, Applicant respectfully points out that the final action by the Examiner presented some new arguments as to the application of the art against Applicant’s invention. It is respectfully submitted that the entering of the Amendment would allow the Applicant to reply to the final rejections and place the application in condition for allowance.

Finally, Applicant submits that the entry of the amendment would place the application in better form for appeal, should the Examiner dispute the patentability of the pending claims.

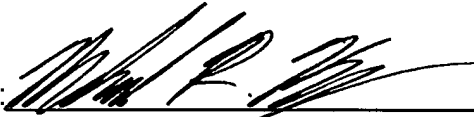
In view of the foregoing remarks, Applicant respectfully requests reconsideration of the application and withdrawal of the rejections. Pending claims 1-10, 12-23, 25-28, 41, and 43-53 are in condition for allowance, and Applicants request a favorable action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: June 14, 2006

By: 

Michael R. Kelly
Reg. No. 33,921